

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY
11/06/2001

*** FILED ***
11/14/2001
CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

Docket Code 512 Page 1 LC 2001-000470

FILED: _____

STATE OF ARIZONA
v.
WILLIAM R INDICAVITCH JR

ELIZABETH B ORTIZ

RICHARD T FULLER

REMAND DESK CR-CCC
TEMPE JUSTICE CT-WEST

MINUTE ENTRY

WEST TEMPE JUSTICE COURT

Cit. No. #CR99-01111FE

Charge: 1. AGG DUI OF INTOX LIQ OR DRUGS WHILE MINOR PRESENT
2. EXTREME DUI OF INTOX LIQ OR DRUGS WHILE MINOR PRESENT

DOB: 07/07/61

DOC: 06/05/99

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This matter has been under advisement since its assignment on October 29, 2001. This decision is made within 30 days as required by Rule 9.8, Maricopa County Superior Court Local Rules of Practice. This Court has reviewed and considered the record of the proceedings from the West Tempe Justice Court, and the Memoranda submitted by counsel.

This case involves an appeal by the Appellant from a restitution order by the trial court. Appellant entered into a plea agreement which provided that restitution would be paid to David DeBellis in an amount not to exceed \$25,000 and restitution would be paid to Ramon Cota in an amount not to exceed \$25,000. The trial judge entered a restitution award of \$3,342.50 payable to Brown and Brown Chevrolet (the owners of the vehicle driven by David DeBellis) and restitution of \$11,324.80 payable to St. Paul Insurance Company (the insurers of David DeBellis). Appellant objected and has filed a timely Notice of Appeal from the restitution order. The only issue presented for review is

whether the trial court exceeded the terms of the plea agreement in ordering restitution payable to Brown and Brown Chevrolet and St. Paul Insurance Company.

Restitution to the victim of a crime is required by Arizona Law. In fact, victims of crime have a right under the Arizona Constitution to prompt restitution.¹ A.R.S. Section 13-603(C) and A.R.S. Section 13-804 require that a sentencing court order a convicted person to pay restitution to the victim of a crime in the full amount of the economic loss suffered by the victim.

Appellants complain that Brown and Brown Chevrolet and the St. Paul Insurance Company were not listed as victims to whom Appellant would be required to pay restitution. Appellant's arguments must fail for several reasons. It is clear that Brown and Brown Chevrolet is the actual owner of the vehicle David DeBellis was driving as entitled to restitution. Similarly, the St. Paul Insurance Company reimbursed David DeBillis for his losses. The most important fact regarding the trial court's restitution order is that the total amount was less than \$15,000, far less than the \$25,000 maximum amount Appellant was warned in his plea agreement that he could be required to pay to David DeBillis. Brown and Brown Chevrolet and the St. Paul Insurance Company clearly qualify as victims within the meaning of the preceding statutes.²

IT IS THEREFORE ORDERED affirming the restitution order entered by the West Tempe Justice Court.

IT IS FURTHER ORDERED remanding this matter back for all future proceedings to the West Tempe Justice Court.

¹ Arizona Constitution Article II, Section 2.18.

² *State v. Morris*, 173 Ariz. 14, 839 P.2d 434 (App.1992).